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No. 03-245

IN THE

Supreme Court of the United States

OCTOBER TERM, 2003

DALE R. DE ROLPH, ET AL., *Petitioners*

v.

THE STATE EX REL. STATE OF OHIO, *Respondent.*

On Petition for Writ of *Certiorari* to the Supreme Court of Ohio

BRIEF OF *AMICI CURIAE* NATIONAL SCHOOL BOARDS ASSOCIATION, ASSOCIATION OF SCHOOL BUSINESS OFFICIALS INTERNATIONAL, HORACE MANN LEAGUE, NATIONAL PTA, NEW YORK STATE SCHOOL BOARDS ASSOCIATION, PEOPLE FOR THE AMERICAN WAY, PUBLIC EDUCATION NETWORK AND UNITED CHURCH OF CHRIST JUSTICE AND WITNESS MINISTRIES IN SUPPORT OF PETITIONERS

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TABLE OF CONTENTS

Page

INTEREST OF THE AMICI 1

SUMMARY OF THE CASE 3

SUMMARY OF THE ARGUMENT 4

ARGUMENT 4

I. The Ohio Supreme Court's decision threatens the viability of public education as a cornerstone of America's democratic society 4

II. The Ohio Supreme Court's decision renders the state constitutional right to an education meaningless 7

A. States have recognized public education as a constitutional right 7

B. Enforcement of this right has been sought through school funding litigation across the nation 10

C. Without enforcement of a judicial order, the right to an education becomes meaningless 15

CONCLUSION 15

TABLE OF AUTHORITIES

Page

Supreme Court Cases

Brown v. Board of Education,
347 U.S. 483, 493 (1954) 6

Grutter v. Bollinger,
123 S. Ct. 2325, 2340 (2003) 6, 7

Marbury v. Madison,
5 U.S. 137 (1803) 15

Pyler v. Doe,
457 U.S. 202 (1982) 6

San Antonio Indep. School Dist. v. Rodriguez,
411 U.S. 1 (1973) 7, 13

State Cases

Abbeville County Sch. Dist. v. State,
515 S.E.2d 534 (S.C. 1999) 14

Alabama Coalition for Equity v. Hunt,
Opinion of The Justices, No. 338
624 So.2d 107 (Ala. 1993) 10

Bezdicheck v. State,
CIV 91-209 (S.D. 1994) 14

Bismarck Pub. Dist. No. 1 v. State,
511 N.W.2d 247 (N.D. 1994) 10

Board of Educ. of Cincinnati v. Walter,
390 N.E.2d 813 (Ohio 1979) 14

Britt v. North Car. State Bd. of Educ.,
357 S.E.2d 432 (1987) 14

Campaign for Fiscal Equity v. State,
2003 N.Y. Slip Op. 15615 (N.Y. 2003) 2, 14

Campaign for Fiscal Equity v. State,
655 N.E.2d 661 (N.Y. 1995) 14

Campbell County Sch. Dist. v. State,
907 P.2d 1238 (Wyo. 1995) 14

Charlet v. State,
713 So.2d 1199 (La. Ct. App. 1998) 14

Claremont Sch. Dist. v. Governor,
703 A.2d 1353 (N.H. 1997) 14

Coalition for Adequacy and Fairness in School Funding Inc. v. Chiles
680 So.2d 400 (Fla. 1996) 13

Coalition for a Common Cents Solution v. Iowa,
No. N/A (Iowa Dist. Ct. filed April 2002) 13

Committee for Educ. Equality v. State,
878 S.W.2d 446 (Mo. 1994) 14

Committee for Educ. Rights v. Edgar,
672 N.E.2d 1178 (Ill. 1996) 13

Danson v. Casey,
399 A.2d 360 (Pa. 1979) 14

DeRolph v. State,
677 N.E.2d 733 (Ohio 1997) 14

DeRolph v. State,
786 N.E.2d 60 (Ohio 2003) 14

Douglas County Sch. Dist. v. Johanns,
No. 03-1028 (Douglas County Dist. Ct. filed
June 30, 2003) 14

Dupree v. Alma Sch. Dist.,
651 S.W.2d 90 (Ark. 1983) 13

Fair Sch. Finance Council v. State,
746 P.2d 1135 (Okla. 1987) 14

Gould v. Orr,
506 N.W.2d 349 (Neb. 1993) 14

Harper v. Hunt, Op. of Justices,
624 So.2d 107 (Ala. 1993) 13

Helena Elementary Sch. Dist. v. State,
769 P.2d 684 (Mont. 1989) 14

Hornbeck v. Board of Education,
458 A.2d 758 (Md. 1983) 14

Horton v. Meskill,
376 A.2d 359 (Conn. 1977) 10, 13

Idaho Sch. For Equal Educ. Opportunity v. Evans,
850 P.2d 724 (Idaho 1993) 13

Idaho Sch. For Educ. Opportunity v. State,
976 P.2d 913 (Idaho 1998) 13

Kukor v. Grover,
436 N.W.2d 568 (Wis. 1989) 10, 14

Lake View Sch. Dist. v. Huckabee,
10 S.W.3d 892 (Ark. 2000) 13

Leandro v. State,
488 S.E.2d 249 (N.C. 1997) 11, 14

Levittown Sch. Dist. v. Nyquist,
439 N.E.2d 359 (N.Y. 1982) 14

Lewis E. v. Spagnolo,
710 N.E.2d 798 (Ill. 1999) 13

Lujan v. Board of Educ.,
649 P.2d 1005 (Colo. 1982) 13

Matanuska-Susitna Borough Sch. Dist. v. State,
931 P.2d 391 (Alaska 1997) 13

McDuffy v. Secretary,
615 N.E.2d 516 (Mass. 1993) 14

Pauley v. Bailey,
255 S.E.2d 859 (W. Va. 1979) 10

Pauley v. Bailey,
324 S.E.2d 128 (W. Va. 1984) 14

Pauley v. Gainer,
353 S.E.2d 318 (W. Va. 1986) 14

Pauley v. Kelly,
255 S.E.2d 859 (W. Va. 1979) 14

Pennsylvania Ass'n of Rural and Small Sch. v. Ridge,
737 A.2d 246 (Pa. 1999) 14

Richland County v. Campbell,
364 S.E.2d 470 (S.C. 1988) 14

Robinson v. Cahill,
303 A.2d 273 (N.J. 1973) 14

Roosevelt Elementary Sch. Dist. v. Bishop,
877 P.2d 806 (Ariz. 1994) 10, 13

Rose v. Council for Better Educ.,
790 S.W.2d 186 (Ky. 1989) 10, 13

Scott v. Commonwealth,
443 S.E.2d 138 (Va. 1994) 10

Serrano v. Priest,
557 P.2d 929 (Cal. 1976), *cert. denied*,
432 U.S. 907 (1977) 10, 13

Shofstall v. Hollins,
515 P.2d 590 (Ariz. 1973).....10, 13

Skeen v. State,
505 N.W.2d 299 (Minn. 1993).....10, 14

Seattle Sch. Dist. v. State,
585 P.2d 71 (Wash. 1978) 14

Tennessee Small Sch. Sys. v. McWherter,
851 S.W.2d 139 (Tenn. 1993).....10, 14

Thompson v. Engelking,
537 P.2d 635 (Idaho 1975) 13

Tucker v. Lake View Sch. Dist.,
917 S.W.2d 530 (Ark. 1996)..... 13

Vincent v. Voight,
614 N.W.2d 388 (Wis. 2000) 14

Washakie County Sch. Dist. No. 1 v. Herschler,
606 P.2d 310, *cert denied*, 449 U.S. 824 (1980).....10, 14

Woodahl v. Straub,
520 P.2d 776 (Mont. 1974)..... 14

Zuni Sch. Dist. v. State,
No. 98-14-II (Dist. Ct. McKinley County filed Oct. 14, 1999) 14

Rules, Regulations and Statutes

Federal Statutes

No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115, Stat. 1425 11

State Statutes

ALA. CONST. Amend. 111 8
ALA. CONST. art. XIV, § 256 8
ALASKA CONST. art. VII, § 1 8
ARIZ. CONST. art XI, § 1 8
ARK. CONST. art. XIV, § 1 8
CAL. CONST. art. IX, § 5 8
COLO. CONST. art. IX, § 2 8
CONN. CONST. art. VIII, § 1 8
DEL. CONST. art. X, § 1 8
FLA. CONST. art. IX, § 1 8
GA. CONST. art. VIII, § 1, para.1 8
HAW. CONST. art. X, § 1 8
IDAHO CONST. art. IX, § 1 8
ILL. CONST. art. X, § 1 8
IND. CONST. art. VIII, § 1 8
IOWA CONST. art. IX, § 3 8
KAN. CONST. art. VI, § 1 8
KY. CONST. § 183 8
LA. CONST. art. VIII, § 1 8
MASS. CONST. pt. II, ch. V, § II 8
MD. CONST. art VIII, § 1 8
ME. CONST. art. VIII, pt. 1, § 1 8
MICH. CONST. art. VIII, § 2 9
MINN. CONST. art. XIII, § 1 9
MISS. CONST. art. VIII, § 201 9
MO. CONST. art. IX, § 1(a) 9
MONT. CONST. art. X, § 1(3) 9

N.C. CONST. art. IX, § 2(2) 9
NEV. CONST. art. XI, § 2 9
N.D. CONST. art. VIII, § 2 9
N.H. CONST. pt. 2, art. 83 9
N.J. CONST. art. VIII, § 4, para. 1 9
N.M. CONST. art. XII, § 1 9
N.Y. CONST. art. XI, § 1 9
N.Y. EDUC. LAW § 1618 9
OHIO CONST. art. VI, § 2 9
OKLA. CONST. art. XIII, § 1 9
ORE. CONST. art. VIII, § 3 9
R.I. CONST. art. XIII, § 1 9
S.C. CONST. art, XI, § 3 9
S.D. CONST. art. VIII, § 1 9
TENN. CONST. art. XI, § 12 9
TEX. CONST. art. VII, § 1 9
UTAH CONST. art. X, § 1 9
VA. CONST. art. VIII, § 1 9
VT. CONST. ch. II, § 68 9
WASH. CONST. art. IX, § 2 9
WIS. CONST. art. X, § 3 9
W. VA. CONST. art. XII, § 1 9
WYO. CONST. art. VIII, § 1 9

Other Authorities

Horace Mann, Tenth Report (1846) 5

Bernard Mayo, Jefferson Himself 89
(University Press of Virginia, 1942) 5

Sandra Day O'Connor & Craig Joyce, The Majesty of the Law (Random House 2003) 16

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INTEREST OF THE AMICI[1]

The National School Boards Association (NSBA) is a nonprofit federation of state associations of school boards across the United States. It represents the 95,000 school board members across the nation who, in turn, serve America's 15,000 public school districts. Adequacy of funding for these districts is probably the single most important issue in education today. NSBA has consistently supported school finance approaches that foster excellence in student achievement for all children.

The Association of School Business Officials International (ASBO) is an educational association representing more than 6,300 members who are the professionals employed in the management of schools. The mission of ASBO is to provide programs and services to promote the highest standards of school business management practices, professional growth, and the effective use of educational resources.

The Horace Mann League was founded in 1922 to perpetuate the ideals of Horace Mann, the founder of the American public school system. The League believes that the public school system of the United States is an indispensable agency for the perpetuation of the ideals of our democracy and a necessary unifying and dynamic influence in American life.

National PTA is the largest volunteer child advocacy organization in the United States, with more than six million members. A not-for-profit association of

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[1] The *Amici* file this brief with the consent of both parties. Letters attesting to their consent are filed with this brief. No counsel for a party authored this brief in whole or in part. No person or entity, other than the *Amici,* their members, or their counsel, made a monetary contribution for the preparation or submission of this brief.

parents, educators, students, and other citizens active in their schools and communities, PTA is a leader in reminding our nation of its obligations to children. Since its founding in 1897, National PTA has prided itself in being a powerful voice for children, a relevant resource for parents, and a strong advocate for public education.

The New York State School Boards Association (NYSSBA) is a not-for-profit membership organization in the State of New York. NYSSBA represents approximately six hundred ninety-five (695) of seven hundred and forty-two (742) public school districts in New York State, or approximately ninety-four percent (94%) of all New York public school districts. NYSSBA has been actively involved in school finance litigation in the State of New York in *Campaign for Fiscal Equity v. State*, 2003 N.Y. Slip Op. 15615 (N.Y. June 26, 2003).

People For the American Way is a non-partisan national organization with more than 600,000 members and supporters dedicated to promoting civil and constitutional rights and effective public education. People For has supported measures to improve and strengthen public education, while opposing proposals like vouchers that would harm public education, in Ohio and across the country. People For joins this brief because of the importance of ensuring that where a right to adequate, effective public education is established under state law, it is crucial that an effective remedy for violation of that right be available as well.

The Public Education Network (PEN) is a national organization of local education funds (LEFs) and individuals working to build public demand and mobilize resources for quality public education in low-income communities across the nation. PEN believes that public education is the cornerstone of our democratic way of life.

PEN seeks to strengthen public education, and opposes policies and practices that detract from it. PEN and its 81 LEF members work in 31 states and the District of Columbia in more than 1,200 school districts serving almost 11 million children, approximately 20% of the public school student population. Many PEN members are located in states currently or previously involved in school finance litigation.

The United Church of Christ (UCC) Justice and Witness Ministries coordinates and implements the denomination's justice advocacy mandates on behalf of 1.4 million members in over 6,000 congregations in the United States and Puerto Rico. The UCC has historically worked to strengthen public schools and to oppose policy that weakens the nation's public education system including inadequate funding. In 2001, the UCC's General Synod, its highest denominational governing assembly, called upon its members and congregations to work to safeguard public education as a civil right.

Amici submit this brief to call attention to law and arguments that may assist this Court. *Amici* are all organizations dedicated in some way to ensuring the right of all America's children to obtain a good basic education and the continued ability of public school districts to provide such. In the balance is the access of future generations of students to an education that will enable them to develop into productive citizens and guarantors of the democratic principles upon which this nation was founded.

SUMMARY OF THE CASE

The central issue in this case is whether the children of the State of Ohio, or any other state, have the

ability to obtain a remedy for the violation of their state constitutional right to education. *Amici* incorporate the facts as outlined in the brief of Petitioners.

SUMMARY OF THE ARGUMENT

Petitioners, school children and school districts, should not be denied enforcement of the state constitutional right to an adequate education recognized by the Supreme Court of Ohio.

ARGUMENT

I. The Ohio Supreme Court's decision threatens the viability of public education as a cornerstone of America's democratic society.

Public education serves a vital role as a cornerstone of America's democratic society. Our nation's founding leaders believed that the success of American democracy depended on the development of an educated citizenry that would vote wisely, protect its rights and freedoms, rout out political corruption, and keep the nation secure from internal and external threats to democracy. Early leaders generally embraced the concept and words of Thomas Jefferson:

> [A] people who mean to be their own Governors must arm themselves with the power which knowledge gives. I think by far the most important bill in our whole code is that for the diffusion of knowledge among the people. No other sure foundation can be devised for the preservation of freedom and

> happiness. * * * Preach my dear sir, a crusade against ignorance; establish and improve the law for education of the common people.

BERNARD MAYO, JEFFERSON HIMSELF 89 (University Press of Virginia, 1942).

Educational leaders have recognized the paramount role of education in the life of our nation. As stated by Horace Mann:

> Under a republican government, it seems clear that the minimum of this education can never be less than such as is sufficient to qualify each citizen for the civil and social duties he will be called to discharge; such an education is indispensable for the civil functions of a witness or a juror; is necessary for the voter in municipal affairs; and finally, for the faithful and conscientious discharge of all those duties which devolve upon the inheritor of a portion of the sovereignty of this great republic.

HORACE MANN, TENTH REPORT (1846).

This Court has also recognized the importance of public education to preparing our nation's children.

> Today education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our

> democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.

Brown v. Board of Education, 347 U.S. 483, 493 (1954).

In *Plyler v. Doe*, 457 U.S. 202 (1982), this Court found that although education is not specifically set forth as a federal constitutional right, it "has a fundamental role in maintaining the fabric of our society" by preparing citizens to participate in a democracy.

> [T]he public schools [are] a most vital civic institution for the preservation of a democratic system of government and ... the primary vehicle for transmitting the values on which our society rests. ... In sum, education has a fundamental role in maintaining the fabric of our society.

Id. at 221.

Most recently in *Grutter v. Bollinger,* 123 S. Ct. 2325 (2003), this Court reflected on the importance of elementary and secondary education.

> We have repeatedly acknowledged the overriding importance of preparing students for work and citizenship, describing education as pivotal to "sustaining our political and cultural heritage" with a fundamental role in maintaining the fabric of society." [citations omitted]

Id. at 2340.

These passages correctly note that public education is vital not only to the maintenance of our democracy but also to the vitality of our economy. This has never been truer than it is today as the infrastructure of our nation's economy becomes increasingly information reliant. Further an adequate education is necessary to make viable most other constitutional rights, such as freedom of expression and assembly. It is thus an underlying right.

II. The Ohio Supreme Court's decision renders the state constitutional right to an education meaningless.

A. States have recognized public education as a constitutional right.

This Court declined to find an equal protection violation for the inequitable distribution of educational opportunities in *San Antonio Indep. School Dist. v. Rodriguez,* 411 U.S. 1 (1973). It found there was no fundamental right to education in the United States Constitution and deferred instead to state systems. Many state supreme courts have ruled that their citizens have a right to an education based on state constitutional provisions.

Petitioners here are seeking enforcement of that very right as recognized by the Ohio Supreme Court. Review by this Court is imperative, for without it the students of Ohio have no remedy for the violation of their state constitutional right to an education.

The action of the Ohio Supreme Court has immense implications when one considers that all fifty states have a state constitutional clause requiring the state to provide elementary and secondary education for its citizens.[2]

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[2] ALA. CONST. art. XIV, § 256, as amended by ALA. CONST. Amend. 111 (a liberal system of public schools); ALASKA CONST. art. VII, § 1 (a system of public schools); ARIZ. CONST. art. XI, § 1 (a general and uniform public school system); ARK. CONST. art. XIV, § 1 (a general, suitable and efficient system of free public schools); CAL. CONST. art. IX, § 5 (a system of common schools); COLO. CONST. art. IX, § 2 (a thorough and uniform system of free public schools); CONN. CONST. art. VIII, § 1(free public elementary and secondary schools); DEL. CONST. art. X, § 1 (a general and efficient system of free public schools); FLA. CONST. art. IX, § 1 (a uniform system of free public schools); GA. CONST. art. VIII, § 1, para. 1 (an adequate public education); HAW. CONST. art X, § 1 (a statewide system of public schools); IDAHO CONST. art. IX, § 1 (a general, uniform and thorough system of public, free common schools); ILL. CONST. art. X, § 1(an efficient system of high quality public educational institutions and services); IND. CONST. art. VIII, § 1 (a general and uniform system of Common Schools); IOWA CONST. art. IX, § 3 (encourage by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement); KAN. CONST. art. VI, § 1 (establishing and maintaining public schools); KY CONST. § 183 (an efficient system of common schools); LA. CONST. art. VIII, § 1 (a public educational system); ME. CONST. art. VIII, pt. 1, § 1 (the Legislature are authorized and it shall be their duty to require, the several towns to make suitable provision at their own expense, for the support and maintenance of public schools); MD. CONST. art. VIII, § 1 (a thorough and efficient system of free public schools); MASS. CONST. pt. II, ch. V, § II (to cherish the interests of literature and the sciences, and all seminaries of them; especially the University at Cambridge, public schools and grammar schools in the towns); MICH. CONST. art. VIII, §

Some states merely pronounce the importance of education, while others specifically mandate the maintenance of an educational system. Many use similar patterns of language in these provisions, e.g., requiring a "thorough and efficient," "uniform system" of public education for all students, or as in Ohio a "thorough and efficient system of common schools."

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2 (a system of free public elementary and secondary schools); MINN. CONST. art. XIII, § 1 (a general and uniform system of public schools); MISS. CONST. art. VIII, § 201 (establishment, maintenance and support of free public schools); MO. CONST. art. IX , § 1(a) (establish and maintain free public schools for gratuitous instruction); MONT. CONST. art. X , § 1(3) (a basic system of free instruction in the common schools); NEV. CONST. art. XI, § 2 (a uniform system of common schools); N.H. CONST. pt. 2, art. 83 (cherish the interest of literature and the sciences, and all seminaries and public schools); N.J. CONST. art. VIII, § 4, para. 1 (a thorough and efficient system of free public schools); N.M. CONST. art. XII, § 1 (a uniform system of free public schools); N.Y. CONST. art. XI, § 1 (a system of free common schools); N.C. CONST. art. IX, § 2(2) (a general and uniform system of free public schools); N.D. CONST. art. VIII, § 2 (a uniform system of free public schools); OHIO CONST. art. VI, § 2 (a thorough and efficient system of common schools); OKLA. CONST. art. XIII, § 1 (a system of free public schools); ORE. CONST. art. VIII, § 3 (a uniform, and general system of public education); R.I. CONST. art. XII, § 1 (promote public schools); S.C. CONST. art. XI, § 3 (a system of free public schools); S.D. CONST. art. VIII, § 1 (a general and uniform system of public schools); TENN. CONST. art. XI, § 12 (a system of free public schools); TEX. CONST. art. VII, § 1 (an efficient system of public free schools); UTAH CONST. art. X, § 1 (establishment and maintenance of the state's education system); VT. CONST. ch. II, § 68 (a competent number of schools ought to be maintained in each town); VA. CONST. art. VIII, § 1 (a system of free public elementary and secondary schools); WASH. CONST. art. IX, § 2 (a general and uniform system of public schools); W. VA. CONST. art. XII, § 1 (a thorough and efficient system of free schools); WIS. CONST. art. X, § 3 (the establishment of district schools, which shall be as nearly uniform as practicable); WYO. CONST. art. VII, § 1 (a complete and uniform system of public instruction).

B. Enforcement of this right has been sought through school funding litigation across the nation.

In school funding cases across the nation, plaintiffs have exerted their rights in state courts under these clauses defining the state's obligation to provide elementary and secondary education to its citizens. Whatever the actual language, plaintiffs have argued that the intent is to impose on the state a constitutional obligation to provide an "adequate" or basic education to every student. In many of these states, the state supreme court has recognized that this provision creates a state constitutional right to education.[3]

The courts in many of these cases have found the constitutional provisions require access to an adequate education, which is not necessarily an equal distribution of resources to all school districts. The focus has shifted from equity – determining a way to distribute the money equitably across school districts in a state—to adequacy – determining whether the state has provided sufficient

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[3] *E.g.*, Alabama Coalition for Equity v. Hunt, Opinion of the Justices No. 338 , 624 So.2d 107, 111 (Ala. 1993); Roosevelt Elementary Sch. Dist. v. Bishop, 877 P.2d 806, 811 (Ariz. 1994); Shofstall v. Hollins, 515 P.2d 590, 592 (Ariz. 1973); Serrano v. Priest, 557 P.2d 929, 951 (Cal. 1976), *cert. denied*, 432 U.S. 907 (1977); Horton v. Meskill, 376 A.2d 359, 373 (Conn. 1977); Rose v. Council for Better Educ., 790 S.W.2d 186, 214 (Ky. 1989); Skeen v. State, 505 N.W.2d 299, 313 (Minn. 1993); Bismarck Pub. Dist. No. 1 v. State, 511 N.W.2d 247, 256 (N.D. 1994); Tennessee Small Sch. Sys v. McWherter, 851 S.W.2d 139, 151 (Tenn. 1993); Scott v. Commonwealth, 443 S.E.2d 138, 142 (Va. 1994); Pauley v. Bailey, 255 S.E.2d 859, 878 (W.Va. 1979); Kukor v. Grover, 436 N.W.2d 568, 579 (Wis. 1989); Washakie County Sch. Dist. No. 1 v. Herschler, 606 P.2d 310, 333 (Wyo. 1980), *cert denied*, 449 U.S. 824 (1980).

resources to the system to ensure all students have an opportunity to a minimum level of education. Educational adequacy focuses on how much money is needed to provide to students the opportunity to achieve certain educational results or achievement levels.[4] These cases have overshadowed the concern for the equitable distribution of money across states.

When plaintiffs are successful in exerting a constitutional right to an adequate education, the court must define the contours of that right. For example, the North Carolina Supreme Court in *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1997), defined the right as access to an education that provides students:

- The ability to read, write and speak English with enough knowledge of math and science to "function in a complex and rapidly changing society."
- Sufficient knowledge of geography, history and basic economic and political systems to make informed choices about the community, state and nation.
- Sufficient skills to engage in post-secondary education and training.
- The ability to compete with others on an equal basis in "formal education or gainful employment."

Nonetheless millions of students in grades K-12 nationwide are currently being denied this substantive right because of inadequate funding to these educational systems. In 2001-02 the United States spent a total of

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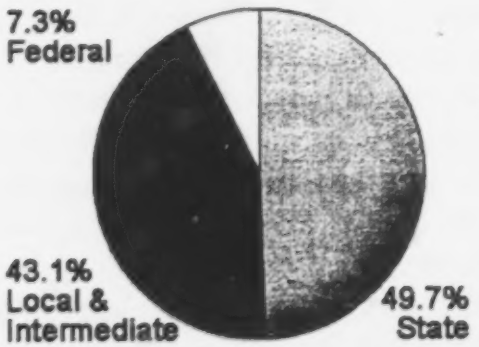
[4] Determining an amount necessary to reach specific academic benchmarks, a challenge made even more immediate by the federal legislation, *No Child Left Behind Act of 2001*, Pub. L. No. 107-110, 115 Stat. 1425.

$410 billion of federal, state and local tax money on public schools, a sum woefully inadequate to the task. The federal government provides the smallest percentage of school funds not in keeping with its imposition of high cost mandates, such as special education and *No Child Left Behind*. The state governments contribute approximately half of elementary and secondary school funding, with local governments providing over 40%. U.S. DEPARTMENT OF EDUCATION, NATIONAL CENTER FOR EDUCATION STATISTICS, COMMON CORE OF DATA, *National Public Education Financial Survey*" 2000-2001, *at* http://nces.ed.gov/edfin/graphs/topic.asp?INDEX=4



National Center for Education Statistics, 2000-01

These overall percentages are not replicated in every state, and average per pupil spending varies widely from state to state, ranging from a high of $11,248 in New Jersey to a low of $4,674 in Utah. U.S. DEPARTMENT OF EDUCATION, NATIONAL CENTER FOR EDUCATION STATISTICS, COMMON CORE OF DATA, *National Public Education Financial Survey*, 2000-2001. These variances occur because state and local governments fund their public schools systems through a hodgepodge of property-

related tax schemes that often lack parity and stability, and the ability to raise sufficient resources.

This has lead to widespread school finance litigation across the nation. State school finance systems have been attacked as unconstitutional under state constitutions in the overwhelming majority of the states since this Court's decision in *Rodriguez*. In these cases state financing schemes have been struck down by numerous state supreme courts, and in one case, the entire system of education, not just the finance scheme, was found to be unconstitutional. *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 215 (Ky. 1989).

Thirty-four states have had, or are currently involved in, adequacy suits such as the case at hand.[5] In

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[5] **Alabama**, Harper v. Hunt, Op. of Justices, 624 So.2d 107 (Ala. 1993); **Alaska**, Matanuska-Susitna Borough Sch. Dist. v. State, 931 P.2d 391 (Alaska 1997); **Arizona**, Shofstall v. Hollins, 515 P.2d 590 (Ariz. 1973); Roosevelt Elementary Sch. Dist. v. Bishop, 877 P.2d 806 (Ariz. 1994); **Arkansas**, Dupree v. Alma Sch. Dist., 651 S.W.2d 90 (Ark. 1983); Tucker v. Lake View Sch. Dist., 917 S.W.2d 530 (Ark. 1996); Lake View Sch. Dist. v. Huckabee, 10 S.W.3d 892 (Ark. 2000); **California**, Serrano v. Priest, 557 P.2d 929 (Cal. 1977); **Colorado**, Lujan v. Board of Educ., 649 P.2d 1005 (Colo. 1982); **Connecticut**, Horton v. Meskill, 376 A.2d 359 (Conn. 1977); **Florida**, Coalition for Adequacy and Fairness in School Funding Inc. v. Chiles, 680 So.2d 400 (Fla. 1996); **Idaho**, Idaho Sch. for Educ. Opportunity v. State, 976 P.2d 913 (Idaho 1998); Thompson v. Engelking, 537 P.2d 635 (Idaho 1975); Idaho Sch. for Equal Educ. Opportunity v. Evans, 850 P.2d 724 (Idaho, 1993); **Illinois**, Committee for Educ. Rights v. Edgar, 672 N.E.2d 1178 (Ill. 1996); Lewis E. v. Spagnolo, 710 N.E.2d 798 (Ill. 1999); **Iowa**, Coalition for a Common Cents Solution v. Iowa, No. N/A (filed April 2002); **Kentucky**, Rose v. Council for Better Educ., 790 S.W.2d 186 (Ky. 1989); **Louisiana**, Charlet v. State, 713 So.2d 1199 (La Ct. App. 1998); **Maryland**, Hornbeck v. Board of Education, 458 A.2d 758 (Md. 1983); **Massachusetts**, McDuffy v. Secretary, 615 N.E.2d 516 (Mass. 1993); **Minnesota**, Skeen v. State, 505 N.W.2d 299 (Minn. 1993); **Missouri**, Committee for Educ.

these cases plaintiffs have sought relief from substandard education programs resulting from state school funding systems. These plaintiffs then must return through the courts for the enforcement of their constitutional rights.

Equality v. State, 878 S.W.2d 446 (Mo. 1994); **Montana**, Woodahl v. Straub, 520 P.2d 776 (Mont. 1974); Helena Elementary Sch. Dist. v. State, 769 P.2d 684 (Mont. 1989); **Nebraska**, Gould v. Orr, 506 N.W.2d 349 (Neb. 1993); **Nebraska**, Douglas County Sch. Dist. v. Johanns, No. 03-1028, (filed June 2003); **New Hampshire**, Claremont Sch. Dist. v. Governor, 703 A.2d 1353 (N.H. 1997); **New Jersey**, Robinson v. Cahill, 303 A.2d 273 (N.J. 1973); **New Mexico**, Zuni Sch. Dist. v. State, No. 98-14-II (filed October 1999); **New York**, Levittown Sch. Dist. v. Nyquist, 439 N.E. 2d 359 (N.Y. 1982); Campaign for Fiscal Equity v. State, 655 N. E. 2d 661 (N.Y. 1995); Campaign for Fiscal Equity v. State, 2003 N.Y. Slip Op. 15615 (N.Y. 2003); **North Carolina**, Britt v. North Car. State Bd. of Educ., 357 S.E.2d 432 (1987); Leandro v. State, 488 S.E.2d 249 (N.C. 1997); **Ohio**, Board of Educ. of Cincinatti v. Walter, 390 N.E.2d 813 (Ohio 1979); DeRolph v. State, 677 N.E.2d 733 (Ohio 1997); DeRolph v. State, 786 N.E.2d 60 (Ohio 2003); **Oklahoma**, Fair Sch. Finance Council v. State, 746 P.2d 1135 (Okla. 1987); **Pennsylvania**, Danson v. Casey, 399 A.2d 360 (Pa. 1979); Pennsylvania Ass'n of Rural and Small Sch. v. Ridge, 737 A.2d 246 (Pa. 1999); **South Carolina**, Richland County v. Campbell, 364 S.E.2d 470 (S.C. 1988); Abbeville County Sch. Dist. v. State, 515 S.E.2d 535 (S.C. 1999); **South Dakota**, Bezdicheck v. State, CIV 91-209 (S.D.1994); **Tennessee**, Tennessee Small Sch. System v. McWherter, 851 S.W.2d 139 (Tenn. 1993); **Washington**, Seattle Sch. Dist. v. State, 585 P.2d 71 (Wash. 1978); **West Virginia**, Pauley v. Kelly, 255 S.E.2d 859 (W.Va. 1979); Pauley v. Bailey, 324 S.E.2d 128 (W.Va. 1984); Pauley v. Gainer, 353 S.E.2d 318 (W. Va. 1986); **Wisconsin**, Kukor v. Grover, 436 N.W.2d 568 (Wis. 1989); Vincent v. Voight, 614 N.W.2d 388 (Wis. 2000); **Wyoming**, Washakie County Sch. Dist. v. Herschler, 606 P.2d 310 (Wyo. 1980); Campbell County Sch. Dist. v. State, 907 P.2d 1238 (Wyo. 1995). Other states have experienced school litigation based on equity, rather than adequacy theories.

C. Without enforcement of a judicial order, the right to an education becomes meaningless.

The duty of the courts to require compliance with orders is firmly established as a fundamental tenet in American due process. Two hundred years ago in *Marbury v. Madison*, 5 U.S. 137 (1803), this Court recognized the inherent rights of citizens to seek a remedy through judicial process. "[I]t is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded". *Id.* at 163. If a court rules a state statute unconstitutional, it follows that the legislature must be required to rectify the constitutional error. If a court of competent jurisdiction declines to or is forbidden to oversee the legislative response, it in effect perpetuates an unconstitutional act. Our judicial system strives to avoid this by making courts subject to appeals to higher courts.

The opinion of the Ohio Supreme Court denies Petitioners access to the judicial processes of the state, thus depriving them of meaningful enforcement of the constitutional rights afforded to them. Thus, review by this Court is necessary in this case to ensure that our justice system functions with integrity.

CONCLUSION

In cases such as these, it is especially critical to understand "the impact of legal rules on human lives, that the law is not an abstract concept removed from the society it serves, and the judges, as safeguarders of the Constitution, must constantly strive to narrow the gap

between the ideal of equal justice and the reality of social inequality." SANDRA DAY O'CONNOR & CRAIG JOYCE, THE MAJESTY OF THE LAW (Random House 2003).

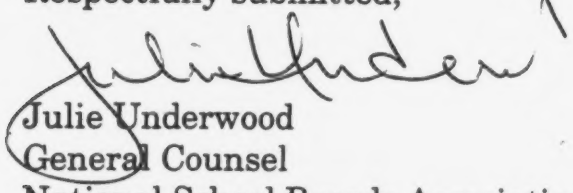
This case affects not only 1.8 million students in the State of Ohio, but also potentially 47 million students nationwide. Litigation similar to *DeRolph* has played out in most of the states of this nation. Plaintiffs in these cases seek redress of state constitutional violations. Twenty-four state supreme courts have found such a violation. These plaintiffs must then have some method to enforce their constitutional right to an adequate education. Without enforcement state legislatures will be able to sit idly by and not make the tough political and economic choices necessary to invest sufficiently in the children of their state. This case is about protecting the future of America's children.

Our nation has historically relied on public schools to provide an education to all children, to equip students with the skills they need to participate in a democracy, and to be an instrument of harmony in our society. A quality education available to all of America's children, regardless of where they live is essential to the survival and prosperity of our nation and democracy.

Our schools must be sufficiently funded to provide our children with an adequate education. To recognize that children have a state constitutional right to education and then provide no mechanism for them to redress a violation of that right, in essence provides no right at all, an empty promise which perpetrates a great injustice upon future generations. As citizens of the United States, these petitioners have a right to enforcement of their rights. It is the necessary function of a state supreme court to interpret the state constitution and protect a citizen's rights under it. When a state

supreme court unlawfully deprives their citizens of a remedy after recognizing the violation of a right, it is appropriate for this Court to review that decision.

Respectfully submitted,



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